

AMENDED IN SENATE APRIL 23, 2003

AMENDED IN SENATE APRIL 2, 2003

SENATE BILL

No. 542

**Introduced by Senator Murray
(Principal coauthor: Senator Alpert)**

February 20, 2003

An act to amend Sections 66010.6, 66903, 94770, and 94780 of, to amend and renumber Sections 94900, 94901, and 94905 of, to add ~~Section 66903.1~~ *Sections 66903.1, 94256, 94257, 94258, 94259, 94260, 94261, 94262, and 94263* to, to add a chapter heading immediately preceding Section 94250 of, to repeal Sections 12090, 12091, 12092, 12093, and 12094 of, and to repeal the heading of Article 8 (commencing with Section 94900) of Chapter 7 of Part 59 of, the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 542, as amended, Murray. Postsecondary education: California Postsecondary Education Commission.

(1) Existing law, known as the Donahoe Higher Education Act, sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their respective institutions of higher education. Among other things, the act establishes the California Postsecondary Education Commission (CPEC) for, among other purposes, the collection of data pertinent to the planning and coordination of the higher education system of the state.

Existing law authorizes the State Department of Education to enter into agreements with the federal Veterans Administration, or any other

agency of the federal government, for the education of veterans in any of the schools of the California public school system, except the California State University.

This bill would withdraw that authority from the State Department of Education and, instead, grant that authority to CPEC.

(2) The existing Private Postsecondary and Vocational Education Reform Act of 1989 generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. The act is to be repealed by its own provisions on January 1, 2005.

This bill would renumber the provisions of the act that relate to private postsecondary institutions that grant degrees, as defined, and remove those provisions from the act. The repeal date of the act would no longer be applicable to these provisions, the operation of which would thus be extended indefinitely. The bill would also withdraw from the bureau the authority to regulate and approve private postsecondary institutions that grant degrees and, instead, grant that authority to CPEC.

The bill would establish a Degree-Granting Institution Regulatory Account in the Private Postsecondary and Vocational Education Administrative Fund. The bill would require that fees collected by CPEC pursuant to the bill be deposited in the account, and available upon appropriation by the Legislature, to CPEC for the purposes of the bill.

(3) The bill would require CPEC to consult with representatives of the private, public, and independent postsecondary education sectors, and develop recommendations for long-term policies that guide oversight and regulation of the nonpublic sectors of postsecondary education. The bill would require CPEC to submit the recommendations to the appropriate education committees of the Legislature by September 1, 2004.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to accomplish all of the following:

(a) Facilitate articulation and transferability of courses completed by students in the public, private, and independent sectors of postsecondary education by applying a common set of program review standards.

(b) Ensure that students are not defrauded when they choose to enroll in private degree-granting institutions.

(c) Use the full range of public and nonpublic resources to meet the education demands of Tidal Wave II.

SEC. 2. Section 12090 of the Education Code is repealed.

SEC. 3. Section 12091 of the Education Code is repealed.

SEC. 4. Section 12092 of the Education Code is repealed.

SEC. 5. Section 12093 of the Education Code is repealed.

SEC. 6. Section 12094 of the Education Code is repealed.

SEC. 7. Section 66010.6 of the Education Code is amended to read:

66010.6. The missions of agencies charged with coordination, administration, or implementation of higher education policies and programs in California shall be as follows:

(a) The California Postsecondary Education Commission is the statewide postsecondary education coordinating and planning agency. The commission shall serve as a principal fiscal and program advisor to the Governor and the Legislature on postsecondary educational policy. Consistent with Section 66903, the commission's responsibilities shall include, but not necessarily be limited to, all of the following:

(1) Analysis and recommendations related to long-range planning for public postsecondary education.

(2) Analysis of state policy and programs involving the independent and private postsecondary educational sectors.

(3) Analysis and recommendations related to program and policy review.

(4) Resource analysis.

(5) Maintenance and publication of pertinent public information relating to all aspects of postsecondary education.

(6) Approving and regulating private postsecondary educational institutions that grant degrees. For purposes of this

1 paragraph, “private postsecondary educational institutions that
2 grant degrees” means those private postsecondary educational
3 institutions that offer associate of arts or science, baccalaureate,
4 masters, doctorate, or professional degrees and that incorporate
5 general education as a regular part of their curriculum
6 requirements.

7 (7) Consulting with the postsecondary educational segments
8 and with relevant state agencies, including the Student Aid
9 Commission, the Superintendent of Public Instruction, and other
10 relevant parties, in its preparation of analyses and
11 recommendations to the Governor and the Legislature. However,
12 the commission shall remain an independent and nonpartisan body
13 responsible for providing an integrated and segmentally unbiased
14 view for purposes of state policy formulation and evaluation.

15 (b) (1) The California Student Aid Commission is the primary
16 state agency for the administration of state-authorized student
17 financial aid programs available to students attending all segments
18 of postsecondary education. These programs include grant, work
19 study, and loan programs supported by the state and the federal
20 government.

21 (2) Consistent with this responsibility, the commission shall
22 provide, in consultation with the postsecondary education
23 segments and relevant state agencies, policy leadership on student
24 financial aid issues, evaluate the effectiveness of its programs,
25 conduct research and long-range planning as a foundation for
26 program improvement, report on total state financial aid needs,
27 and disseminate information to students and their families.

28 (c) The Bureau for Private Postsecondary and Vocational
29 Education is the primary state agency responsible for approving
30 and regulating private postsecondary and vocational educational
31 institutions, other than private postsecondary institutions that
32 grant degrees, and for developing state policies for private
33 postsecondary and vocational education in California. The bureau
34 shall represent the private postsecondary and vocational education
35 institutions, other than private postsecondary institutions that
36 grant degrees, in all state level planning and policy discussions
37 about postsecondary and vocational education.

38 SEC. 8. Section 66903 of the Education Code is amended to
39 read:



1 66903. The commission has the following functions and
2 responsibilities in its capacity as the statewide postsecondary
3 education planning and coordinating agency and adviser to the
4 Legislature and the Governor:

5 (a) It shall require the governing boards of the segments of
6 public postsecondary education to develop and submit to the
7 commission institutional and systemwide long-range plans in a
8 form determined by the commission after consultation with the
9 segments.

10 (b) It shall prepare a state plan for postsecondary education that
11 shall integrate the planning efforts of the public segments with
12 other pertinent plans. The commission shall seek to resolve
13 conflicts or inconsistencies among segmental plans in consultation
14 with the segments. If these consultations are unsuccessful, the
15 commission shall report the unresolved issues to the Legislature
16 with recommendations for resolution. In developing the plan, the
17 commission shall consider at least the following factors:

18 (1) The need for, and location of, new facilities.

19 (2) The range and kinds of programs appropriate to each
20 institution or system.

21 (3) The budgetary priorities of the institutions and systems of
22 postsecondary education.

23 (4) The impact of various types and levels of student charges
24 on students and on postsecondary education programs and
25 institutions.

26 (5) The appropriate levels of state-funded student financial aid.

27 (6) The access and admission of students to postsecondary
28 education.

29 (7) The educational programs and resources of independent
30 and private postsecondary institutions.

31 (8) The provisions of this division differentiating the functions
32 of the public systems of higher education.

33 (c) It shall update the plan periodically, as appropriate.

34 (d) It shall participate in appropriate stages of the executive and
35 the legislative budget processes as requested by the executive and
36 the legislative branches, and shall advise the executive and the
37 legislative branches as to whether segmental programmatic
38 budgetary requests are compatible with the state plan. It is not
39 intended that the commission hold independent budget hearings.

1 (e) It shall advise the Legislature and the Governor regarding
2 the need for, and location of, new institutions and campuses of
3 public higher education.

4 (f) It shall review proposals by the public segments for new
5 programs, the priorities that guide them, and the degree of
6 coordination with nearby public, independent, and private
7 postsecondary educational institutions, and shall make
8 recommendations regarding those proposals to the Legislature and
9 the Governor.

10 (g) In consultation with the public segments, it shall establish
11 a schedule for segmental review of selected educational programs,
12 evaluate the program approval, review, and disestablishment
13 processes of the segments, and report its findings and
14 recommendations to the Legislature and the Governor.

15 (h) It shall serve as a stimulus to the segments and institutions
16 of postsecondary education by projecting and identifying societal
17 and educational needs and encouraging adaptability to change.

18 (i) It shall periodically collect or conduct, or both collect and
19 conduct, studies of projected manpower supply and demand, in
20 cooperation with appropriate state agencies, and disseminate the
21 results of those studies to institutions of postsecondary education
22 and to the public in order to improve the information base upon
23 which student choices are made.

24 (j) It shall periodically review and make recommendations
25 concerning the need for, and availability of, postsecondary
26 programs for adult and continuing education.

27 (k) It shall develop criteria for evaluating the effectiveness of
28 all aspects of postsecondary education.

29 (l) It shall maintain and update annually an inventory of all
30 off-campus programs and facilities for education, research, and
31 community services operated by public and independent
32 institutions of postsecondary education.

33 (m) (1) It shall act as a clearinghouse for postsecondary
34 education information and as a primary source of information for
35 the Legislature, the Governor, and other agencies. It shall develop
36 and maintain a comprehensive database that does all of the
37 following:

38 (A) Ensures comparability of data from diverse sources.

39 (B) Supports longitudinal studies of individual students as they
40 progress through the state's postsecondary educational

1 institutions, based upon the commission's existing student
2 database through the use of a unique student identifier.

3 (C) Is compatible with the California School Information
4 System and the student information systems developed and
5 maintained by the public segments of higher education, as
6 appropriate.

7 (D) Provides Internet access to data, as appropriate, to the
8 sectors of higher education.

9 (E) Provides each of the educational segments access to the
10 data made available to the commission for the purposes of the
11 database, in order to support, most efficiently and effectively,
12 statewide, segmental, and individual campus educational research
13 information needs.

14 (2) The commission, in implementing paragraph (1), shall
15 comply with the federal Family Educational Rights and Privacy
16 Act of 1974 (20 U.S.C. Sec. 1232g) relating to the disclosure of
17 personally identifiable information concerning students.

18 (3) The commission may not make available any personally
19 identifiable information received from a postsecondary
20 educational institution concerning students for any regulatory
21 purpose unless the institution has authorized the commission to
22 provide that information on behalf of the institution.

23 (4) The commission shall provide 30-day notification to the
24 chairpersons of the appropriate legislative policy and budget
25 committees of the Legislature, to the Director of Finance, and to
26 the Governor prior to making any significant changes to the
27 student information contained in the database.

28 (n) It shall establish criteria for state support of new and
29 existing programs, in consultation with the public segments, the
30 Department of Finance, and the Joint Legislative Budget
31 Committee.

32 (o) It shall comply with the appropriate provisions of the
33 federal Education Amendments of 1972 (P.L. 92-318), as
34 specified in Section 67000.

35 (p) It shall consider the relationship among academic education
36 and vocational education and job training programs, and shall
37 actively consult with representatives of public and private
38 education.

39 (q) It shall review all proposals for changes in eligibility pools
40 for admission to public institutions and segments of postsecondary

1 education and shall make recommendations to the Legislature, the
2 Governor, and institutions of postsecondary education. In carrying
3 out this subdivision, the commission periodically shall conduct a
4 study of the percentages of California public high school graduates
5 estimated to be eligible for admission to the University of
6 California and the California State University. The changes made
7 to this subdivision during the 2001–02 Regular Session of the
8 Legislature shall be implemented only during those fiscal years for
9 which funding is provided for the purposes of those provisions in
10 the annual Budget Act or in another measure.

11 (r) It shall report periodically to the Legislature and the
12 Governor regarding the financial conditions of independent
13 institutions, their enrollment and application figures, the number
14 of student spaces available, and the respective cost of utilizing
15 those spaces as compared to providing additional public spaces.
16 The reports shall include recommendations concerning state
17 policies and programs having a significant impact on independent
18 institutions.

19 (s) Upon request of the Legislature or the Governor, it shall
20 submit to the Legislature and the Governor a report on all matters
21 so requested that are compatible with its role as the statewide
22 postsecondary education planning and coordinating agency. Upon
23 request of individual Members of the Legislature or personnel in
24 the executive branch, the commission shall submit information or
25 a report on any matter to the extent that sufficient resources are
26 available. From time to time, it also may submit to the Legislature
27 and the Governor a report that contains recommendations as to
28 necessary or desirable changes, if any, in the functions, policies,
29 and programs of the several segments of public, independent, and
30 private postsecondary education.

31 (t) In consultation with the public segments, it shall consider
32 the development of facilities to be used by more than one segment
33 of public higher education, commonly called “joint-use
34 facilities.” It shall recommend to the Legislature criteria and
35 processes for different segments to utilize bond funds for these
36 intersegmental, joint-use facilities.

37 (u) Pursuant to Chapter 2.5 (commencing with Section 94250)
38 of Part 59, it shall provide oversight and regulatory services with
39 respect to private postsecondary institutions that offer degree
40 programs.

(v) It may undertake other functions and responsibilities that are compatible with its role as the statewide postsecondary education planning and coordinating agency.

SEC. 9. Section 66903.1 is added to the Education Code, to read:

66903.1. (a) Subject to the provisions of this article, the commission may enter into an agreement with the United States Veterans Administration, or with any other agency of the federal government, for the education of veterans in any of the schools of the public school system or on any campus of a regionally accredited or state approved postsecondary education institution. The agreement shall provide for the payment to the schools of the maximum amount permitted by the act of Congress under which the agreement is entered into by the United States Veterans Administration, or by any other agency of the federal government.

(b) The commission is vested with all necessary power and authority to cooperate with any agency of the federal government in the administration of any act of Congress, as well as the rules and regulations adopted thereunder, that is applicable to this article.

(c) The commission may enter into an agreement with a governing board of a school district for the education by the district of veterans in accordance with the agreement between the commission and the agency of the federal government.

~~SEC. 10. —A chapter heading~~

(d) *It is the intent of the Legislature that the commission's activities under this section be funded solely through federal funding.*

SEC. 10. A chapter heading, immediately preceding Section 94250, is added to Part 59 of the Education Code, to read:

CHAPTER 2.5. PRIVATE POSTSECONDARY DEGREE-GRANTING
INSTITUTIONS

SEC. 11. Section 94256 is added to the Education Code, to read:

94256. (a) Any institution operating on December 31, 2003, with a full, conditional, or temporary approval to operate, may continue to operate under the terms of that approval until that full, conditional, or temporary approval to operate expires or a

1 subsequent action is taken by the commission that affects that
2 approval to operate, whichever comes first.

3 (b) Each regulation in Division 7.5 (commencing with Section
4 70000) of Title 5 of the California Code of Regulations in effect on
5 June 30, 2003, shall be in full force and effect on and after January
6 1, 2004, to the extent the regulation is consistent with the relevant
7 provisions in this chapter. The commission may, by emergency
8 regulation, designate which regulations are consistent with this
9 chapter and which are not.

10 SEC. 12. Section 94257 is added to the Education Code, to
11 read:

12 94257. It is the intent of the Legislature that the commission's
13 approval and regulating responsibilities for degree-granting
14 institutions be funded solely through approval fees and federal
15 funding provided to implement the approval process for courses
16 offered to veterans by approved institutions.

17 SEC. 13. Section 94258 is added to the Education Code, to
18 read:

19 94258. The commission shall have the following functions
20 and responsibilities in its capacity as the statewide educational
21 planning and regulatory agency for degree-granting private
22 postsecondary educational institutions:

23 (a) The establishment of policies for the administration of this
24 chapter.

25 (b) The establishment of minimum criteria for the approval of
26 private postsecondary educational institutions to operate in
27 California and award degrees, and for the approval of institutions
28 that meet the criteria.

29 (c) The adoption of regulations governing the conduct of
30 institutions under this chapter, including, but not limited to,
31 minimum state standards for refund policies, advertising,
32 enrollment agreements and contracts, consumer information,
33 attendance policies, and financial responsibility.

34 (d) The adoption of regulations for the transaction of its own
35 affairs, and procedures necessary or appropriate for the conduct
36 of its work and the implementation of this chapter.

37 (e) The publication of an Internet directory of all
38 degree-granting private postsecondary educational institutions
39 approved to operate in California under this chapter.



1 (f) *The impaneling of special committees of technically*
2 *qualified persons to assist the commission in the development of*
3 *standards for education and educational institutions and the*
4 *evaluation of an application or institutions pursuant to this*
5 *chapter. The members of the special committees shall receive no*
6 *compensation but shall be reimbursed for their actual expenses for*
7 *attendance at official meetings and actual expenses when on*
8 *official commission business. The members of the special*
9 *committees shall serve at no expense to the state. The actual travel*
10 *and per diem expenses incurred by each member of a special*
11 *committee shall be reimbursed by the institution that is the subject*
12 *of inspection or investigation.*

13 (g) (1) *The commission may design and administer a process*
14 *for the approval of courses offered to veterans, and for the*
15 *approval and supervision of the institutions offering courses to*
16 *veterans, pursuant to any applicable act of Congress and the*
17 *regulations adopted pursuant to that act.*

18 (2) *For the purposes of this subdivision, the commission:*

19 (A) *Is designated as the state approving agency for veterans'*
20 *institutions and veterans' courses, and is authorized to be*
21 *reimbursed for its services in this regard.*

22 (B) *May adopt regulations that are necessary and appropriate*
23 *to exercise its authority under this subdivision.*

24 SEC. 14. *Section 94259 is added to the Education Code, to*
25 *read:*

26 94259. (a) *For the purposes of administration and*
27 *enforcement of this chapter, the commission, and the director and*
28 *officers and employees of the commission, shall have all the*
29 *powers and authority granted under this chapter and under*
30 *Division 1 (commencing with Section 100) and Division 1.5*
31 *(commencing with Section 475) of the Business and Professions*
32 *Code. In addition to satisfying the approval, compliance, and*
33 *enforcement provisions of this chapter, the commission shall also*
34 *comply with and exercise all authority granted by Division 1*
35 *(commencing with Section 100) and Division 1.5 (commencing*
36 *with Section 475) of the Business and Professions Code.*
37 *Notwithstanding any provision of this chapter, Section 119 of the*
38 *Business and Professions Code does not apply to violations under*
39 *this chapter.*

1 (b) The commission shall establish a regular inspection
2 program that shall include unannounced inspections.

3 (c) If the commission determines, after an investigation, that an
4 institution has violated this chapter or any of the regulations
5 adopted by the bureau, the commission may do any or all of the
6 following:

7 (1) Place the institution on probation.

8 (2) Issue an order prohibiting the enrollment of new students.

9 (3) Request the issuance of an administrative citation and
10 imposition of an administrative fine by the Attorney General.

11 (4) Issue an order of abatement or citation pursuant to Section
12 125.9 or 148 of the Business and Professions Code.

13 (5) Initiate proceedings under the Administrative Procedure
14 Act or this chapter to revoke or suspend the institution's approval
15 to operate.

16 (6) With the consent of the institution, refer an adjudicative
17 proceeding to mediation, or binding or nonbinding arbitration, in
18 accordance with the regulations of the Office of Administrative
19 Hearings or the commission.

20 (7) Order reimbursement of the costs of the investigation and
21 enforcement in accordance with Section 94262 of this code or
22 Section 125.3 of the Business and Professions Code. An institution
23 shall not be required to pay the same costs and expenses to more
24 than one investigating entity.

25 SEC. 15. Section 94260 is added to the Education Code, to
26 read:

27 94260. (a) A Degree-Granting Institution Regulatory
28 Account is hereby established in the Private Postsecondary and
29 Vocational Education Administration Fund referenced in Section
30 94932. All fees collected pursuant to this section shall be credited
31 to this account, along with any interest on the money, for the
32 administration of this chapter. Funds deposited in the account are
33 available, upon appropriation by the Legislature, to the
34 commission for the purposes of this chapter. If the Legislature
35 makes an appropriation for the support of the commission for the
36 purposes of this chapter in the Budget Act of any fiscal year, the
37 amount for the support of the commission expended from the
38 account during the fiscal year shall not exceed the amount
39 appropriated by the Budget Act, unless that amount is modified in
40 accordance with the Budget Act.

1 ***(b) On and after January 1, 2004, a minimum of 50 percent of***
2 ***the funds appropriated to the commission for the purposes of this***
3 ***chapter shall be used to cover the costs of enforcing all of the***
4 ***following:***

5 ***(1) Enforcing the chapter and the commission's regulations by***
6 ***taking actions against violators while ensuring due process for all***
7 ***institutions.***

8 ***(2) Ensuring that independent onsite evaluations and random***
9 ***and targeted inspections and audits of institutions are conducted,***
10 ***and that students have easy access to information concerning their***
11 ***rights to contract cancellation, withdrawal, refunds, and***
12 ***remedies.***

13 ***(3) Mediating student complaints to achieve balanced***
14 ***outcomes for students and institutions.***

15 ***(c) (1) For the approval of private degree-granting***
16 ***institutions operating under this chapter, the commission shall***
17 ***charge an amount not to exceed the actual costs of approving or***
18 ***renewing the approval of those institutions. The commission shall***
19 ***adopt a fee schedule for all institutions approved under this***
20 ***chapter, including the maximum amounts to be charged for an***
21 ***institution's initial application and annual renewal.***

22 ***(2) The commission shall maintain the application fees for***
23 ***approval and reapproval to operate and the annual fees that are***
24 ***in effect on December 31, 2003.***

25 ***(3) (A) The commission may propose modifications to the fee***
26 ***schedule to the Governor and the Legislature to add or delete***
27 ***categories of fees related to work performed by the commission,***
28 ***and propose to the Governor and the Legislature the maximum***
29 ***amount to be charged for each fee category added to the fee***
30 ***schedule. The fee schedule shall provide adequate resources for***
31 ***the commission to implement this chapter effectively. It is the intent***
32 ***of the Legislature that the commission shall adopt a fee schedule***
33 ***that reflects the size of the institution, with institutions enrolling a***
34 ***larger number of students being required to pay a larger annual fee***
35 ***than those with smaller student enrollments.***

36 ***(B) The commission shall annually present its proposed budget***
37 ***and fee schedule, penalty fees assessed for delinquent payments***
38 ***pursuant to regulations adopted by the commission, and additions***
39 ***and deletions of fee categories to the Department of Finance and***
40 ***the Joint Legislative Budget Committee for their review as part of***

1 *the annual budget process. The commission shall annually publish*
2 *a schedule of the current fees to be charged pursuant to this*
3 *section, and shall make this schedule generally available to the*
4 *public.*

5 *(C) The fees may be increased annually up to the maximum*
6 *allowable level by a majority vote of the commission, without any*
7 *additional review and approval by the Office of Administrative*
8 *Law. The adoption of the annual fee schedule, any modification of*
9 *the fee schedule, and any increase in fees up to the maximum*
10 *allowable level shall be subject to Article 5 (commencing with*
11 *Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of*
12 *the Government Code. Increases above the maximum level shall be*
13 *changed through legislation enacted by the Legislature and signed*
14 *by the Governor.*

15 *SEC. 16. Section 94261 is added to the Education Code, to*
16 *read:*

17 *94261. Any institution more than 30 days delinquent in the*
18 *payment of any fee or order for the recovery of costs and expenses*
19 *under Section 94262 may be assessed a penalty fee by the*
20 *commission.*

21 *SEC. 17. Section 94262 is added to the Education Code, to*
22 *read:*

23 *94262. (a) If the commission determines, after an*
24 *investigation, that an institution has violated this chapter, the*
25 *commission may order the institution to pay the costs and expenses*
26 *incurred in connection with the investigation and any civil or*
27 *administrative proceeding involving the violation that was*
28 *investigated, including charges made by the Attorney General for*
29 *his or her services, and any expenses incurred by a district*
30 *attorney. Before any order for the payment of costs and expenses*
31 *is made under this section, the commission shall provide the*
32 *institution with written notice, including notice of the institution's*
33 *right to request a hearing within 15 days of service of the notice.*
34 *If a hearing is not timely requested, the council may order*
35 *payment.*

36 *(b) If a hearing is requested, the commission shall comply with*
37 *the procedures set forth in Section 94965, 94975, or 94980. Within*
38 *30 days after the effective date of the order, the commission may*
39 *enforce the order as if it were a money judgment pursuant to Title*
40 *9 (commencing with Section 680.10) of Part 2 of the Code of Civil*

1 *Procedure. Alternatively, the commission may seek the costs and*
2 *expenses allowed under this section in a civil proceeding.*

3 *(c) An institution shall not be required to pay the same costs and*
4 *expenses incurred in connection with the investigation and any*
5 *civil or administrative proceeding to more than one investigating*
6 *agency.*

7 *SEC. 18. Section 94263 is added to the Education Code, to*
8 *read:*

9 *94263. It is the intent of the Legislature that the effective date*
10 *of any statutory amendment to this chapter affecting revenues*
11 *payable to the commission from any service rendered under this*
12 *chapter shall be delayed for a period of 12 months in order to*
13 *enable the commission to make the necessary adjustments in its fee*
14 *schedule through the regulatory adoption process.*

15 *SEC. 19. Section 94770 of the Education Code is amended to*
16 *read:*

17 *94770. (a) There is a Bureau for Private Postsecondary and*
18 *Vocational Education in the Department of Consumer Affairs. The*
19 *bureau shall succeed to any and all rights and claims of the former*
20 *Council for Private Postsecondary and Vocational Education that*
21 *may have been asserted in any judicial or administrative action*
22 *pending on January 1, 1998, and shall take any action reasonably*
23 *necessary to assert and realize those rights and claims in its own*
24 *name. The functions of the former council and the responsibilities*
25 *the former council had for the administration of former Chapter 7*
26 *(commencing with Section 94700) on June 29, 1997, are*
27 *transferred to the bureau, effective January 1, 1998, as provided by*
28 *this act. It is the intent of the Legislature that there be no gap in the*
29 *performance of functions or the administration of the law*
30 *governing private postsecondary educational institutions.*
31 *Notwithstanding any other provision of law, Section 19050.9 of*
32 *the Government Code shall apply regardless of the date on which*
33 *former Chapter 7 (commencing with Section 94700) became*
34 *inoperative or was repealed.*

35 *(b) The bureau shall have possession and control of all records,*
36 *papers, offices, equipment, supplies, or other property, real or*
37 *personal, held for the benefit or use by the former council in the*
38 *performance of the duties, powers, purposes, responsibilities, and*
39 *jurisdictions that are vested in the bureau.*

(c) The bureau has the responsibility for approving and regulating private postsecondary educational institutions, other than the degree-granting institutions that are approved and regulated by the California Postsecondary Education Commission pursuant to Chapter 2.5 (commencing with Section 94250). The bureau shall have, as its objective, the development of a strong, vigorous, and widely respected sector of private postsecondary and vocational education.

~~SEC. 12.—~~

SEC. 20. Section 94780 of the Education Code is amended to read:

94780. No institution, subject to this chapter, shall offer any educational service unless the institution is first approved by the council and meets all of the requirements in the following articles:

(a) This article, Article 6 (commencing with Section 94800) except as provided for institutions approved under Article 9.5 (commencing with Section 94931), Article 10 (commencing with Section 94932), Article 11 (commencing with Section 94940), and Article 12 (commencing with Section 94944).

(b) Article 9 (commencing with Section 94915), if the institution does not offer degrees.

(c) Article 9.5 (commencing with Section 94931), if the institution is registered pursuant to that article.

(d) Article 7 (commencing with Section 94850), if the educational programs are not exempt under Section 94790.

~~SEC. 13.—~~

SEC. 21. The heading of Article 8 (commencing with Section 94900) of Chapter 7 of Part 59 of the Education Code is repealed.

~~SEC. 14.—~~

SEC. 22. Section 94900 of the Education Code is amended and renumbered to read:

94250. (a) (1) No private postsecondary educational institution may issue, confer, or award an academic or honorary degree unless the institution is approved by the commission to operate in California and award degrees.

(2) The commission shall not issue an approval under paragraph (1) of subdivision (c) of Section 94251 or a conditional approval under paragraph (2) of subdivision (c) of Section 94251 until it has conducted a qualitative review and assessment of, and has approved, each degree program offered by the institution, and

1 all of the operations of the institution, and has determined all of the
2 following:

3 (A) The institution has the facilities, financial resources,
4 administrative capabilities, faculty, and other necessary
5 educational expertise and resources to ensure its capability of
6 fulfilling the program or programs for enrolled students.

7 (B) The faculty are fully qualified to undertake the level of
8 instruction that they are assigned, possess degrees or credentials
9 appropriate to the degree program and level they teach, and have
10 demonstrated professional achievement in the major field or fields
11 offered, in sufficient numbers to provide the educational services.

12 (C) The education services and curriculum clearly relate to the
13 objectives of the proposed program or programs, and offer
14 students the opportunity for a high-quality education.

15 (D) The facilities are appropriate for the defined educational
16 objectives and are sufficient to ensure quality educational services
17 to the students enrolled in the program or programs.

18 (E) The program of study for which the degree is granted
19 provides the curriculum necessary to achieve its professed or
20 claimed academic objective for higher education, and the
21 institution requires a level of academic achievement appropriate
22 to that degree.

23 (F) The institution provides adequate student advisement
24 services, academic planning and curriculum development
25 activities, research supervision for students enrolled in Ph.D.
26 programs, and clinical supervision for students enrolled in various
27 health profession programs.

28 (G) If the institution offers credit for prior experiential learning
29 it may do so only after an evaluation by qualified faculty and only
30 in disciplines within the institution's curricular offerings that are
31 appropriate to the degree to be pursued. The commission shall
32 develop specific standards regarding the criteria for awarding
33 credit for prior experiential learning at the graduate level,
34 including the maximum number of hours for which credit may be
35 awarded.

36 (b) The approval process shall include a qualitative review and
37 assessment of all of the following:

38 (1) Institutional purpose, mission, and objectives.

39 (2) Governance and administration.

40 (3) Curriculum.

- 1 (4) Instruction.
- 2 (5) Faculty, including their qualifications.
- 3 (6) Physical facilities.
- 4 (7) Administrative personnel.
- 5 (8) Procedures for keeping educational records.
- 6 (9) Tuition, fee, and refund schedules.
- 7 (10) Admissions standards.
- 8 (11) Financial aid policies and practices.
- 9 (12) Scholastic regulations and graduation requirements.
- 10 (13) Ethical principles and practices.
- 11 (14) Library and other learning resources.
- 12 (15) Student activities and services.
- 13 (16) Degrees offered.
- 14 (c) The standards and procedures utilized by the commission
- 15 shall foster the development of high-quality, innovative
- 16 educational programs and emerging new fields of study within
- 17 postsecondary education. In addition, the standards and
- 18 procedures utilized by the commission shall not unreasonably
- 19 hinder educational innovation and competition.
- 20 (d) (1) The Committee of Bar Examiners for the State of
- 21 California, in lieu of the commission, shall be responsible for the
- 22 approval, regulation, and oversight of degree-granting law schools
- 23 that (A) exclusively offer bachelor's, master's, or doctorate
- 24 degrees in law, such as Juris Doctor, and (B) are not otherwise
- 25 exempt under Section 94750. This paragraph does not apply to
- 26 unaccredited law schools that remain subject to the jurisdiction of
- 27 the commission.
- 28 (2) If a law school not exempt under Section 94750 offers
- 29 educational services other than bachelor's, master's, or
- 30 doctorate-degree programs in law, the law school and its nonlaw
- 31 degree programs shall be subject to Chapter 7 (commencing with
- 32 Section 94700), and the law school's degree programs in law shall
- 33 be subject to the approval, regulation, and oversight of the
- 34 Committee of Bar Examiners.
- 35 (e) As used in this chapter, "commission" refers to the
- 36 California Postsecondary Education Commission.
- 37 ~~SEC. 15.~~—
- 38 SEC. 23. Section 94901 of the Education Code is amended
- 39 and renumbered to read:

1 94251. (a) (1) The commission shall conduct a qualitative
2 review and assessment of the institution. It also shall conduct a
3 qualitative review and assessment of all programs offered except
4 continuing education programs and programs that are exclusively
5 avocational or recreational in nature. The review shall include the
6 items listed in subdivision (b) of Section 94250, through a
7 comprehensive onsite review process, performed by a qualified
8 visiting committee impaneled by the commission for that purpose.

9 (2) An institution may include some or all of its separate
10 operating sites under one application. Alternatively, it may submit
11 separate applications for any one site or combination of sites. The
12 satellites or branches included in either an initial or renewal
13 application shall be considered by the commission to comprise a
14 separate, single institution for purposes of regulation, approval,
15 and compliance under this chapter.

16 (3) The application shall include a single fee based on the
17 number of branches, satellites, and programs included within a
18 single application in order to cover the costs involved for those
19 multisite and multiprogram reviews. If the application is for
20 renewal of an existing approval, the institution need only submit
21 information necessary to document any changes made since the
22 time its previous application was filed with the commission. Fees
23 for renewal applications will be based on the actual costs involved
24 in the administrative review process.

25 (b) The number of sites inspected by the commission as part of
26 its review process shall be subject to the following considerations:

27 (1) If the application for approval includes branches and
28 satellites, the commission shall inspect each branch and may
29 inspect any satellite campus.

30 (2) If the application is for approval to operate a branch or a
31 satellite, the commission, in addition to inspecting the branch or
32 satellite, also may inspect the institution operating the branch or
33 satellite campus.

34 (c) The commission may waive or modify the onsite inspection
35 for institutions offering home study or correspondence courses.
36 The visiting committee shall be impaneled by the commission
37 within 90 days of the date of the receipt of a completed application
38 and shall be composed of educators, and other individuals with
39 expertise in the areas listed in subdivision (b) of Section 94900,
40 from degree-granting institutions legally operating within the

1 state. Within 90 days of the receipt of the visiting committee's
2 evaluation report and recommendations, or any reasonable
3 extension of time not to exceed 90 days, the commission shall take
4 one of the following actions:

5 (1) If the institution is in compliance with this chapter and has
6 not operated within three years before the filing of the application
7 in violation of this chapter then in effect, the commission may
8 grant an approval to operate not to exceed five years.

9 (2) If the institution is in compliance with this chapter, but has
10 operated within three years before the filing of the application in
11 violation of this chapter then in effect, or if the commission
12 determines that an unconditional grant of approval to operate is not
13 in the public interest, the commission may grant a conditional
14 approval to operate subject to whatever restrictions the
15 commission deems appropriate. The commission shall notify the
16 institution of the restrictions or conditions, the basis for the
17 restrictions or conditions, and the right to request a hearing to
18 contest them. Conditional approval shall not exceed two years.

19 (3) The commission may deny the application. If the
20 application is denied, the commission may permit the institution
21 to continue offering the program of instruction to students already
22 enrolled or may order the institution to cease instruction and
23 provide a refund of tuition and all other charges to students.

24 (d) When evaluating an institution whose purpose is to advance
25 postsecondary education through innovative methods, the visiting
26 committee shall comprise educators who are familiar with, and
27 receptive to, evidence bearing on the educational quality and
28 accomplishments of those methods.

29 (e) The standards and procedures utilized by the commission
30 shall not unreasonably hinder educational innovation and
31 competition.

32 (f) Each institution or instructional program offering education
33 for entry into a health care profession in which the provider has
34 primary care responsibilities shall offer that education within a
35 professional degree program which shall be subject to approval by
36 the commission pursuant to this section.

37 (g) (1) If an institution is not operating in California when it
38 applies for approval to operate for itself or a branch or satellite
39 campus, the institution shall file with its application an operational
40 plan establishing that the institution will satisfy the minimum

standards set forth in subdivision (a) of Section 94250. The operational plan also shall include a detailed description of the institution's program for implementing the operational plan, including proposed procedures, financial resources, and the qualifications of owners, directors, officers, and administrators employed at the time of the filing of the application. The commission may request additional information to enable the commission to determine whether the operational plan and its proposed implementation will satisfy these minimum standards.

(2) If the commission determines that the operational plan satisfies the minimum standards described in subdivision (a) of Section 94250, that the institution demonstrates that it will implement the plan, and that no ground for denial of the application exists, the commission shall grant a temporary approval to operate, subject to any restrictions the commission reasonably deems necessary to ensure compliance with this chapter, pending a qualitative review and assessment as provided in subdivisions (a) and (b) of Section 94250. The commission shall inspect, pursuant to subdivision (a) of this section, the institution, or branch or satellite campus if approval is sought for that campus between 90 days and 180 days after operation has begun under the temporary approval to operate. Following receipt of the visiting committee's or the commission staff's report, the commission shall act as provided in paragraph (1), (2), or (3) of subdivision (c).

(h) If at any time the commission determines that an institution has deviated from the standards for approval, the commission, after identifying for the institution the areas in which it has deviated from the standards, and after giving the institution due notice and an opportunity to be heard, may place the institution on probation for a prescribed period of time, not to exceed 24 calendar months. During the period of probation, the institution shall be subject to special monitoring. The conditions for probation may include the required submission of periodic reports, as prescribed by the commission, and special visits by authorized representatives of the commission to determine progress toward total compliance. If, at the end of the probationary period, the institution has not taken steps to eliminate the cause or causes for its probation to the satisfaction of the commission, the commission may revoke the institution's approval to award degrees and provide notice to the institution to cease its operations.

1 (i) An institution may not advertise itself as an approved
2 institution unless each degree program offered by the institution
3 has been approved in accordance with the requirements of this
4 section. The commission shall review all operations of the
5 institution, pertaining to California degrees, both within and
6 outside of California. The commission may conduct site visits
7 outside of California, including the institution's foreign
8 operations, when the commission deems these visits to be
9 necessary. The institution shall be responsible for the expenses of
10 the visiting team members including the commission's staff
11 liaison. The commission may authorize any institution approved
12 to issue degrees under this section to issue certificates for the
13 completion of courses of study that are within the institution's
14 approved degree-granting programs.

15 (j) An institution shall not offer any educational program or
16 degree title that was not offered by the institution at the time the
17 institution applied for approval to operate, and shall not offer any
18 educational program or degree title at a campus that had not
19 offered the program or degree title at the time the institution
20 applied for approval to operate that campus, unless the
21 commission first approves the offering of the program or degree
22 title after determining that it satisfies the minimum standards
23 established by this section.

24 ~~SEC. 16.~~

25 *SEC. 24.* Section 94905 of the Education Code is amended
26 and renumbered to read:

27 94255. (a) Any public or private postsecondary educational
28 institution incorporated in another state that has accreditation from
29 a regional accrediting association recognized by the United States
30 Department of Education at the time of the issuance of a degree,
31 and that is approved by the commission, may issue degrees,
32 diplomas, or certificates. Except for continuing education
33 programs and programs that are exclusively avocational or
34 recreational in nature, accredited public or private postsecondary
35 educational institutions incorporated in another state shall not
36 offer degrees, diplomas, or certificates in California unless they
37 comply with this section.

38 (b) The commission shall not approve an institution to issue
39 degrees, diplomas, or certificates pursuant to this section until the
40 commission has conducted a qualitative review and assessment of,



1 and has approved, each program offered by the institution and all
2 of its operations in California, and the commission has determined
3 that the institution meets all of the following standards:

4 (1) The institution has financial resources to ensure the
5 capability of fulfilling the program or programs for enrolled
6 students.

7 (2) The faculty includes personnel who possess appropriate
8 degrees from institutions accredited by a regional accrediting
9 association recognized by the United States Department of
10 Education in the degree major field or fields offered, in sufficient
11 number to provide the educational services.

12 (3) The education services and curriculum clearly relate to the
13 objectives of the proposed program or programs.

14 (4) The facilities are appropriate for the defined educational
15 objectives and are sufficient to ensure quality educational services
16 to the students enrolled in the program or programs.

17 (5) The institution has verifiable evidence of academic
18 achievement comparable to that required of graduates of other
19 institutions operating in this state for the program or programs
20 upon which the degree, diploma, or certificate is based.

21 (c) The period of any approval issued under this section shall
22 be subject to Section 94251.

23 (d) Institutions approved under this section shall offer in
24 California only programs that the institution can document to have
25 been acknowledged or favorably reviewed by the home regional
26 accrediting association.

27 (e) In reviewing the out-of-state accredited institutions, the
28 commission shall use as guidelines the standards and procedures
29 developed by the special committee created pursuant to paragraph
30 (5) of subdivision (b) of Section 94310.1, as in effect on December
31 31, 1989, and adopted by the California Postsecondary Education
32 Commission. These standards and procedures were based on all of
33 the following principles:

34 (1) Following the initial site review, subsequent onsite reviews
35 by the commission may be conducted in conjunction with
36 institutional reviews by the regional accrediting association.
37 However, if there is substantial evidence that the institution is not
38 in compliance with state standards, the commission may initiate a
39 special review of the California operations of the institution.

(2) Each institution may include some, or all, of its separate operating sites under one application. Alternately, it may submit separate applications for any one site or combination of sites. The satellites or branches included in either an initial or renewal application shall be considered by the commission to comprise a separate, single institution for purposes of regulation, approval, and compliance under this chapter.

(3) The application shall include a single fee based on the number of branches, satellites, and programs included within a single application in order to cover the costs involved for multisite and multiprogram reviews.

(4) If the application is for renewal of an existing approval, the institution need only submit information necessary to document any changes made since the time its previous application was filed with the commission. Fees for reapproval applications will be based on the actual costs involved in the administrative review process.

(5) The commission shall develop a rationale to justify the number of sites to be visited by the state in the review of the institution's operations in California. The number of sites visited shall be subject to the following considerations:

(A) If the application for approval includes branches and satellites, the commission may inspect each branch and may inspect any satellite campus.

(B) If the application is for approval to operate a branch or a satellite, the commission, in addition to inspecting the branch or satellite, also may inspect the institution operating the branch or satellite campus.

(C) The commission may waive or modify the onsite inspection for institutions offering home study or correspondence courses.

(D) The purpose of the onsite review by the commission shall be to determine that operations by the institution in California meet the minimum state standards identified in statute.

(E) The standards and procedures shall not unreasonably hinder educational innovation and competition.

~~SEC. 17.—~~

SEC. 25. The California Postsecondary Education Commission shall consult with representatives of the private, public, and independent postsecondary education sectors, and

1 develop recommendations for long-term policies that guide
2 oversight and regulation of the nonpublic sectors of postsecondary
3 education. The recommendations shall be submitted to the
4 appropriate education committees of the Legislature by
5 September 1, 2004, and shall include recommendations in all of
6 the following areas:

7 (a) Specific actions that should be taken to improve
8 transferability of courses among the three sectors of postsecondary
9 education.

10 (b) The extent to which California shall accept accreditation by
11 any entity recognized by the United States Department of
12 Education as a valid proxy for the quality of academic courses,
13 programs, and degrees awarded by postsecondary education
14 institutions operating in California.

15 (c) The extent to which public postsecondary education
16 institutions providing vocational preparation programs should be
17 held to similar standards for completion and placement as private
18 institutions providing similar programs.

